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3 UNITED STATES DISTRICT COURT  
4 EASTERN DISTRICT OF NEW YORK

5 -----X  
6 JUNJIANG JI and DECHENG LI,  
7 : 15 CV 4194

8 Plaintiffs, : United States Courthouse  
9 -against- Central Islip, New York

10 JLING INC.  
11 d/b/a Showa Hibachi, et al., : March 26, 2018  
12 Defendants. 10:00 a.m.  
13 -----X

14 TRANSSCRIPT OF TRIAL  
15 BEFORE THE HONORABLE STEVEN I. LOCKE  
16 UNITED STATES DISTRICT COURT JUDGE

17 APPEARANCES:

18 For the Plaintiffs: TROY LAW, PLLC  
19 41-25 Kissena Boulevard  
Flushing, NY 11355  
By: JOHN TROY, ESQ.

20  
21 For the Defendants: HANG & ASSOCIATES, PLLC  
136-20 38th Avenue, Ste. 10G  
22 Flushing, New York 11354  
23 By: WILLIAM BROWN, ESQ.  
JIAN HANG, ESQ.

24  
25 Court Reporter: OWEN WICKER, RPR  
100 Federal Plaza - Suite 1180  
Central Islip, New York 11722  
(631) 712-6102

Proceedings recorded by mechanical stenography;  
transcript produced by computer aided transcription

1 (Case called.)

2 MR. TROY: Good morning, your Honor, this is  
3 John Troy for plaintiffs.

4 THE COURT: Good morning. Who is with you at  
5 counsel table?

6 MR. TROY: Your Honor, that is our assistant  
7 from our office.

8 THE COURT: Thank you.

9 MR. BROWN: William Brown for the defendants.

10 THE COURT: Is your mike on?

11 MR. BROWN: I believe so.

12 THE COURT: Okay.

13 MR. KIM: Good morning, your Honor. Philip Kim.

14 THE COURT: Who is with you at defense counsel.

15 MR. BROWN: We have the defendants John Zhong E  
16 Hu, Jia Ling Hu and Jia Wang Hu.

17 THE COURT: What is your assistant's name,  
18 Mr. Troy?

19 MR. TROY: Tiffany Troy.

20 Your Honor, this is -- that is Mr. Ji and  
21 Decheng Li, the second plaintiff.

22 THE COURT: You both can make opening statements  
23 if you want to. You do not need to. At the end of the  
24 trial I'll ask you to supply citations to the record. You  
25 will have to make arrangements with the court reporter to

Openings - Troy

3

1 get copies of the transcripts. That is out of my sphere  
2 of expertise. You can do that when you take a break.

3 Mr. Troy, do you want to make an opening  
4 statement or do you want to go straight to the testimony?

5 MR. TROY: I have. I'll have a short opening  
6 statement.

7 THE COURT: I don't mind if you walk around the  
8 courtroom but you have to keep your voice up. If you want  
9 to make an opening statement, you may, Mr. Troy. If you  
10 want to stand you may use the lectern.

11 MR. TROY: Yes, your Honor. Your Honor, good  
12 morning, everybody.

13 This is the traditional FLSA case, Fair Labor  
14 Standards Act case. It's a case relating to the minimum  
15 wage and overtime paid.

16 On this case, we are going to prove our -- give  
17 me one second -- prove our -- they are clients,  
18 employees -- I'll repeat it.

19 THE COURT: You are loud enough. It's hard to  
20 understand. You are taking our, wages?

21 MR. TROY: The plaintiffs, they were taking the  
22 transportation van provided by the employers from Flushing  
23 to the restaurant every day and they are going to the  
24 employer. They were giving rides from the restaurant to  
25 Flushing, New York. They went to work. They were in a

Openings - Troy

1 car and then they changed from 11 o'clock to 12 o'clock to  
2 arrive at the restaurant and then during the days they  
3 usually work until 10 o'clock.

4 Weekends: They work 11 o'clock, that's the  
5 working ours.

6 We are going to prove there are no breaks during  
7 the day, even there is maybe a little bit of rest time  
8 when there is no customer coming, they have to stay in the  
9 restaurant. They cannot go anywhere.

10 The second one we are going to prove, this  
11 restaurant, they generate --

12 Your Honor, I believe the interpreter has to  
13 translate --

14 THE COURT: We'll deal with the interpreter if  
15 you are done with your opening statement. You want them  
16 to translate for the parties?

17 MR. TROY: Okay.

18 Mr. Brown, your clients need an interpreter?

19 MR. BROWN: We need for one of them but we  
20 agreed to share.

21 THE COURT: I understand what you are saying,  
22 Mr. Brown.

23 Why don't you come forward and have the  
24 interpreter sworn in.

25 THE INTERPRETER: Good morning, your Honor.

Openings - Troy

5

1 THE COURT: Please raise your right hand.

2 (Patrick Feng, a Chinese interpreter was duly  
3 sworn.)

4 THE COURT: Mr. Feng, you must keep your voice  
5 up. Sit anywhere where the reporter can hear you.

6 Continue.

7 MR. TROY: Secondly, we are going to prove the  
8 restaurant, they generate 500,000 per year.

9 I believe the case -- that's the case the  
10 plaintiff would like to prove.

11 Thank you, your Honor.

12 THE COURT: All right. Mr. Brown, would you  
13 like to make an opening statement?

14 MR. BROWN: I would like to.

15 (Continued.)

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Openings - Brown

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1                   MR. BROWN: So in this case we have two  
2 plaintiffs. We have plaintiff Ji and a plaintiff Li.  
3 Starting with plaintiff Li, he worked for plaintiff Showa  
4 Hibachi for a short period of time.

5                   During that short period of time that he worked  
6 there, the testimony will hopefully establish that almost  
7 for the entirety of his employment he worked part-time and  
8 that he never worked more than 40 hours per week.

9                   For plaintiff Ji, he did work for the restaurant  
10 for a long period of time exceeding six years. However,  
11 the evidence will also show that he also did not work more  
12 than 40 hours per week throughout his employment.

13                  In addition to the testimony of the parties,  
14 defendants will seek to introduce punch clock records  
15 which will demonstrate the number of hours the plaintiffs  
16 worked.

17                  Furthermore, defendants will seek to introduce  
18 pay records in conjunction with the punch clock records  
19 will demonstrate that plaintiffs were paid according to  
20 state and federal law.

21                  The anticipated testimony will further establish  
22 that defendant John Zhong E Hu was the only employer as  
23 defined by the FLSA and the labor law.

24                  The anticipated testimony will show that for  
25 plaintiff -- sorry, for defendant Jia Ling E Hu and Jia

Openings - Brown

1 Wang Hu, that while they contributed to the restaurant,  
2 helped out, they were definitely not employers as defined  
3 by those laws.

7

4 Finally the evidence that defendants will seek  
5 to introduce will unequivocally show that plaintiff failed  
6 to establish enterprise coverage for the corporate  
7 defendants.

8 The record that the defendants seek to introduce  
9 showed that the restaurant never generated more than  
10 \$500,000 in annual revenue.

11 Thank you.

12 THE COURT: All right. Mr. Troy, first witness.

13 MR. TROY: Yes. Your Honor, I would like to  
14 call Mr. Ji by video.

15 THE COURT: Who is your client, Mr. Li or  
16 Mr. Ji?

17 MR. TROY: I call Junjiang Ji.

18 THE COURT: Please swear the witness.

19 JUNJIANG JI,

20 called as a witness, having been first  
21 duly sworn, was examined and testified  
22 as follows:

23 MR. TROY: Can you hear the interpreter?

24 THE WITNESS: I believe hear the speakers but I  
25 cannot hear the interpreter voice.

Junjiang Ji - Direct/Troy

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1                   THE COURT: Mr. Troy, ask him if he can hear  
2 you.

3                   MR. TROY: So, your Honor, I would like the  
4 interpreter -- please stand by Mr. Troy and we see if the  
5 witness can hear you.

6                   THE COURT: Okay. The next thing is his voice  
7 is low. Is there a way to turn up the volume on that?

8                   We'll do our best. Let's go slow, his voice is  
9 obviously hard to hear.

10                  Are you ready to proceed?

11                  Mr. Troy, begin.

12                  MR. TROY: Okay.

13                  DIRECT EXAMINATION

14                  BY MR. TROY:

15                  Q      Mr. Ji, do you happen to know a restaurant named  
16 Showa Hibachi?

17                  A      Yes, I know.

18                  Q      How do you know about it?

19                  A      I used to work at this restaurant. I was the chef at  
20 the restaurant.

21                  THE COURT: Please speak into the mike.

22                  A      -- I used to work at the restaurant. I was the chef  
23 at the restaurant.

24                  THE COURT: You may also stay at the other side.

25                  THE INTERPRETER: Thank you, your Honor.

Junjiang Ji - Direct/Troy

1 Q Okay. Mr. Ji, do you remember you started the day  
2 you worked for Showa Hibachi?

9

3 A That was on September 25, 2006.

4 Q How did you get the job?

5 A I saw the advertisement in the newspaper. Then I  
6 made a phone call to the boss's wife and then I went for  
7 the interview. That's how I got my job.

8 Q You are talking about the boss. Do you know the  
9 name?

10 A I don't know. We all refer her as the boss's wife.

11 Q You called the restaurant. And what happened when  
12 you called the restaurant?

13 A They said they need cook and I said I would work here  
14 and the boss's wife said to me then you can come over and  
15 she told me how to take a ride, take the public service  
16 car. I took the NRE (sic) to last stop and the boss's  
17 wife came to pick me up.

18 Q What kind of conversation you have when you arrive at  
19 restaurant?

20 A She asked me how many years of experience I had and I  
21 told her how many years. And then she asked me to work  
22 there.

23 Q You talk about the employment. For instance, how  
24 much you are going to get paid a day or how you work?

25 A Initially I was told that each stop I would be

**Junjiang Ji - Direct/Troy**

1           provided by transportation, working six days a week, and I 10  
2           would be receiving \$500 a week.

3       Q     You talk about how many days you have to work and  
4           from what time to what time, the conversation?

5       A     I was told that I would be working six days a week,  
6           from Monday, Tuesday, Wednesday, Thursday and Sunday.

7           That would be from 11 to 10, and Friday to Saturday from  
8           11 to 11:00 p.m.

9       Q     And since then?

10      A     No change.

11      Q     And at some point did the restaurant or store hours  
12           change from 11 or 12 o'clock every day?

13      A     That was after many years.

14      Q     Can you tell us from which year or from which months?

15      A     I believe that was either 2011 or 2012. The time was  
16           changed to 12 o'clock to go to work.

17      Q     Did you pay of 500 a week ever change?

18      A     It had been increased.

19      Q     Would you like to tell us how you were paid, the  
20           increase?

21      A     Later on my weekly salary was increased to \$630.

22      Q     For how many days you work per week if you get 630?

23      A     It was not fixed. Sometimes I work seven days,  
24           sometime six days, sometimes five days. The schedule was  
25           not fixed.

Junjiang Ji - Direct/Troy

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1 Q If you worked for seven days, was your pay 630  
2 increased?

3 A Yes, I believe I was paid more. It was increased.

4 Q If you worked one day more, how much you were going  
5 to get the pay more?

6 A My wages were calculated like this. I was paid \$630  
7 per week for six days. That means I receive \$105 per day.  
8 If I worked an extra day, I would get an additional \$105.  
9 If I worked one day less, I would be deducted \$105.

10 Q Do you have any breaks during the day when you worked  
11 for the restaurant?

12 A It was recorded. It was regulated from three to  
13 five. In the afternoon from 3 to 5 o'clock after lunch,  
14 if we were supposed to have a break time, if there were no  
15 orders we could sit down to have a break, but usually we  
16 have orders. So basically we did not have a break.

17 Q Were you around to leave the restaurant to go  
18 anywhere during 3 to 5, even if you don't have orders?

19 A I was not allowed. I was not allowed, and I would  
20 have to stay there and anytime if there were orders to  
21 come, then I would have to do it.

22 Q Did you have meals during your employment with Showa  
23 Hibachi?

24 A Yes, I had meals. Yes.

25 Q Usually how long it took to have a meal?

Junjiang Ji - Direct/Troy

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1 A Every day after 3 o'clock we would have lunch and  
2 dinner would be for regular days, that was at 9 o'clock at  
3 night, except Friday and Saturday, that would be at  
4 10 o'clock for dinner. But during the mealtime and if  
5 there are orders to come, we have to stop eating and  
6 prepare the orders first, so it doesn't matter whether we  
7 are eating or not. Whenever there were orders, we have to  
8 take it first.

9 Q How long it took always to have a meals in  
10 restaurant. How many meals?

11 A Anyway, it took very short period of time and we have  
12 to hurry to finish the meals.

13 Q I'm asking how many minutes?

14 A Because you have to hurry to finish your meal,  
15 otherwise it would be cold and that's why we normally it  
16 took ten minutes to finish the meal.

17 Q Who paid during your work for Showa?

18 A At that time it was the boss who paid me, who paid  
19 us.

20 Q Who is the boss?

21 A That was the elderly person. That was the boss.

22 Q Are you talking about the husband, Mr. John Hu? He's  
23 the father? He's the husband?

24 A Correct. Correct, yes.

25 Q And anybody pay you except John Hu?

**Junjiang Ji - Direct/Troy**

13

1 A The boss's wife also paid me, but that was a rare  
2 case.

3 Q You are talking about your boss's wife named Jia Wang  
4 Hu? Do you talk about she's the boss wife?

5 Are you talking about the boss wife? Is that  
6 Jia Wang Hu?

7 A I don't know her name. We all refer her as boss's  
8 wife.

9 Q Okay. So who did hire you?

10 A The boss and the boss's wife are the two together.

11 Q At some point does the restaurant owner change?

12 A Yes, it was changed.

13 Q Do you know who become the new owner?

14 A We heard that was the boss's son.

15 Q Boss's son, are you referring to Jia Ling Hu because  
16 he's the son of the boss?

17 A Yes. Yes, that was him.

18 Q When the owner change during the time, did you see  
19 any change in the restaurant?

20 A No.

21 Q The restaurant changed their menu?

22 A No.

23 Q The restaurant change the employees?

24 A No change.

25 Q Did the restaurant change pay of yours or anybody

Junjiang Ji - Direct/Troy

14

1      else?

2      A      No.

3      Q      The equipment, the equipment of the restaurant, ever  
4      change when the owner change?

5      A      No.

6      Q      Not at all?

7      A      Correct. Not at all.

8      Q      During your employment with Showa, were you ever  
9      required to punch in or punch out?

10     A      When I first went there, there was no punch card --  
11     then it became we are required to punch card.

12     Q      Do you remember since when?

13     A      I believe that was from after the time that the  
14     restaurant penalized by a fine and after the change of  
15     ownership and we are required to punch cards.

16     Q      Are you talking about the restaurant name when the  
17     father John Hu was the owner, the restaurant name was  
18     changed to Jannen, Inc. are you talking about? Jannen to  
19     Jling?

20     A      Correct.

21     Q      You think it is about July 2012?

22            MR. BROWN: Objection. Leading question.

23            THE COURT: I'm sorry, I didn't hear you.

24            MR. BROWN: Objection, leading.

25            THE COURT: Sustained.

Junjiang Ji - Direct/Troy

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1                   Mr. Troy, please rephrase the question.

2                   Let me rephrase the question.

3       Q     Do you remember the father's name changed to the  
4                   son's name? Do you remember when it has happened?

5       A     I don't know the exact time when we heard about that  
6                   change, but because I pay my income tax every year. So in  
7                   the year of 2012, I receive two different tax forms from  
8                   two different companies. That's why I believe that was in  
9                   the year 2012 that the change was made.

10      Q     When is the time you punch in when you come to the  
11                   work?

12      A     I believe that was the company was fined and then the  
13                   owners were changed. From that time on the boss's wife  
14                   required us to punch card.

15      Q     Do you punch in every day when you arrive to the  
16                   restaurant?

17      A     I began to go to work at 11 o'clock and I arrived at  
18                   12 o'clock, but after I arrived, I did not punch the card.  
19                   I started to punch the card at 5 o'clock because the  
20                   boss's wife told me to punch like this and to show that I  
21                   worked 20 hours per week.

22      Q     Are you telling us when you arrived to the  
23                   restaurant, you are ordered not to punch in until later in  
24                   the day?

25      A     She did not say that, but to make 20 hours a week, I

Junjiang Ji - Direct/Troy

1           did not punch the card in the morning until 5 o'clock, and  
2           from 5 o'clock to 9 o'clock to show that I work 20 hours a  
3           week.

4       Q     How can you tell us you come to the restaurant at 11  
5           or 12 later every day?

6       A     The time I reported to work every day because we all  
7           commuted from Flushing to the workplace. At that time  
8           when we began working at 11 o'clock, we must get into the  
9           vehicle before 10:30. After the time change to  
10          12 o'clock, we must get into the vehicle before 11:30. We  
11          all arrive at the restaurant at the same time. We all  
12          left at the same time.

13      Q     Are you talking about all the employees of the  
14           restaurant, they take the same vehicle from Flushing to  
15           the restaurant, either at 10:30 or later on at 11:30?

16           MR. BROWN: Objection. Again, leading.

17           THE COURT: I'll overrule it. He's repeating to  
18           what he's already testified. Same thing twice.

19           Mr. Troy, you don't have to ask the same  
20           questions twice. I get it the first time. There is no  
21           jury.

22      A     Correct. But sometimes because of the traffic jam,  
23           in case, sometimes when we left at 11:30 we arrived late.  
24           So we later on changed either at 10:20 to arrive at 11 or  
25           11:20, to arrive at 12.

**Junjiang Ji - Direct/Troy**

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1 Q How many employees were in the vehicle?

2 A The employees were separated. One vehicle could hold  
3 seven passengers. The other five passengers. Sometimes  
4 they drove one vehicle.

5 Q Who was the driver?

6 A Many people were served as drivers, employees from  
7 Hibachi, also from the restaurant, and also the owner.

8 The owner's wife and the owner's son, they all  
9 serve as drivers to drive us to work.

10 Q During your employment, did you take the restaurant  
11 vehicle to work and come back every day?

12 A Yes.

13 Q No exception?

14 A There was a period of time for about several months  
15 because there were no drivers. We were advised to take  
16 the LIRR to go to work and they provided us the train  
17 fare.

18 Q When you came back from the restaurant to Flushing,  
19 they provide the same service, vehicle service too?

20 A Yes, we were given the subway Metrocard and the bus  
21 Metrocard.

22 Q Have you ever come to restaurant to start to work  
23 from 5 o'clock p.m.?

24 A Given the time I worked for the restaurant for almost  
25 nine years, maybe there was only the first time when I

Junjiang Ji - Direct/Troy

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1       went for the interview, that I went there by myself, and  
2       the other time because I was sick and then the other  
3       employees drove me to the restaurant, except those two  
4       times.

5       Q      That's the only two times you went to work at five?

6       A      Yes.

7       Q      Who are your boss or bosses in the restaurant?

8       A      All three of them were my bosses. The older  
9       gentleman and his wife, they were the bosses, and also  
10      their son, he was also my boss.

11      Q      When you started to work for the Showa -- do you know  
12      who was the owner during that time?

13      A      That was the boss and his wife, the two of them.

14      Q      I believe the boss is the sole shareholder. When you  
15      talk about your boss wife is your boss too?

16      A      Because each time when I got paid, the pay document  
17      was written by the wife. The boss only had the payment  
18      twice.

19                  As a matter of fact, the boss's wife connecting  
20      the payment for everything in the restaurant.

21      Q      After the ownership was transferred to the son, who  
22      were your boss or bosses?

23      A      The owner's boss and his wife were still the bosses  
24      and the son was also the boss, but I believe the couple,  
25      the boss and the boss's wife were in charge indeed.

Junjiang Ji - Direct/Troy

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1 Q Who set your working schedule in restaurant?

2 A That was also the boss and his wife who scheduled.

3 Q During your employment with Showa, from the time the  
4 husband, the father was the owner and here the son the  
5 owner, do you know how much money the restaurant can make  
6 maybe every year, every month?

7                   What is the revenue of the restaurant?

8                   MR. BROWN: Objection. There's two questions.

9                   THE COURT: Say the objection again.

10                  MR. BROWN: There's two questions.

11                  THE COURT: Sustained. Rephrase the question,  
12 Mr. Troy.

13                  MR. TROY: Thank you.

14 Q Do you have any idea what is the revenue of the  
15 restaurant?

16 A I don't understand what you are asking.

17 Q Let me rephrase it.

18                  Do you know how much revenue the restaurant  
19 generates per month or per week --

20                  THE COURT: One question at a time. Mr. Troy,  
21 he has to respond to the first question.

22                  MR. TROY: Yes, your Honor.

23 A We analyzed, that we believe at least 50 to 60,000  
24 per month. Initially when the restaurant was first  
25 opened, the business was good. That would be more than

Junjiang Ji - Direct/Troy

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1       \$100,000 per month, but the business gradually became  
2       slower and slower, but we still believe there would be 50  
3       to \$60 per month.

4       Q      Let's talk about the near, the immediately the past  
5       yield, let's talk about the 2015. Do you know what is the  
6       revenue the restaurant generated each months?

7       A      I believe that would be more than \$50,000.

8       Q      How do you come to 50,000 per month?

9       A      Usually we chatted with each other to see how much  
10      business we see and how much tips they receive, so we  
11      discussed and we come up with idea.

12      Q      Would you tell us each month how much the kitchen can  
13      produce every month?

14      A      From the kitchen, I believe it would be more than  
15      \$10,000.

16      Q      In the restaurant, do you have sushi bar? Sushi?

17      A      Yes.

18      Q      How much money you think the sushi department  
19      generate each month?

20      A      I believe it was close to \$10,000.

21      Q      How about the hibachi department?

22      A      The hibachi department, I believe they would have  
23      more than \$30,000.

24      Q      Do you have any other department in the restaurant?

25      A      They were also a bar and the bar was open to the

Junjiang Ji - Direct/Troy

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1 restaurant and they could generate income. There were  
2 four different departments at the restaurant. The  
3 hibachi, sushi bar, the kitchen and the bar.

4 Q Do you know how much money the bar department  
5 generated each month?

6 A From our observation, 2 to 3,000 per month should not  
7 be a problem.

8 Q You work in the kitchen. How do you come to \$10,000  
9 per month the kitchen can generate?

10 A Because we take orders every day and we knew how much  
11 each order and how many orders a day. By simply taking a  
12 look, we would be able to know.

13 Q How and when you look at the orders?

14 A Every day. Anytime I could take a look. Whenever  
15 there was an order, we have to make accordingly.

16 Q Did you ever get a chance to know how much orders per  
17 day?

18 A It was not calculated every day, sometimes we just  
19 take a look to see how many order we have and how much for  
20 the orders and we would have some numbers in mind.

21 Q Have you ever talked about how much money the kitchen  
22 department generates, or anybody?

23 A Yes, I did.

24 Q How you do?

25 A When we chatted, that was part of our subject topic,

Junjiang Ji - Direct/Troy

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1       and we would talk about how many orders we have for the  
2       day and how much money that would be generated.

3       Q       How do you come to 30,000 they generate in the  
4       hibachi department?

5       A       Because the hibachi chefs talk about how much tips  
6       they receive for a day. Sometimes they receive \$100 a  
7       day, sometimes they receive \$120, or different numbers.  
8       And the tips would be shared with the owners 50-50. We  
9       calculated that the tips would be around 15 percent of the  
10      bill.

11                 If it's \$1,000 in business, that would be \$150  
12      tips. So when you calculate it, you would know how much  
13      business.

14       Q       How do you come to \$10,000 for the sushi department  
15      each month?

16       A       We were also chatting on the ride back to Flushing  
17      and we checked how much money, how much money the business  
18      they had and how much money they generated. We discussed  
19      in the vehicle.

20       Q       How about the bar?

21       A       Occasionally we heard about that how much business  
22      they had, how many people sometimes we saw. Sometimes we  
23      saw a group of people came and they spend how much money  
24      at the bar.

25                 MR. BROWN: I object to the previous testimony.

Junjiang Ji - Direct/Troy

23

1       Hearsay.

2                   THE COURT: Mr. Troy, this is a problem. I'm  
3 looking at your witness list. It's one thing for him to  
4 testify not for the truth of what he's saying, in other  
5 words, how did you reach these calculations, but without  
6 the testimony from the other employees and these other  
7 departments, I don't understand how you will establish  
8 this because of the truth of the underlying principals.

9                   MR. TROY: I'll move on.

10                  THE COURT: At this point I have to rule. I  
11 will overrule the objection subject to connect, subject to  
12 anyone with personal knowledge with the various income  
13 numbers when you are calling it the hibachi kitchen  
14 numbers. That's how I'll treat it.

15                  This is all subject to cross-examination when  
16 you take your turn. Go ahead.

17                  MR. TROY: Your Honor, if I may. Just because  
18 he has personal conversation --

19                  THE COURT: Personal conversation, that's not  
20 the same thing as the numbers. What he was told is  
21 hearsay. He can't testify to the truth of that of course.  
22 They can testify to what was said. The problem I suspect,  
23 I don't know if these numbers are true.

24                  MR. TROY: Yes, your Honor.

25       Q     Did you get paid in cash or on check?

Junjiang Ji - Direct/Troy

1 A It depended. Sometimes I received cash. Sometimes I  
2 received check. Sometimes I received both cash and check.  
24

3 Q Generally speaking, for what year, what is the  
4 percentage you get in cash and what is the percentage you  
5 get in checks regarding your pay for the year?

6 A It depended. It depended.

7 Q How much money each year you get paid from the  
8 restaurant?

9 A It depended how many days that I worked.

10 Q Let's talk about how about 2014, 2015. How much  
11 money you make during those years?

12 A I don't have a figure.

13 Q Can you try to recall?

14 A I do have the pay stubs. I have to get them up.  
15 Then I will find out.

16 MR. TROY: Your Honor, may we refer to the  
17 document production from defendant, page 145. I'm going  
18 to show the witness about the page --

19 THE COURT: I don't know what you are talking  
20 about. What document production are you talking about?

21 MR. TROY: That's defendant's exhibit, page  
22 number 145.

23 THE COURT: I don't have any exhibits from the  
24 defendants.

25 MR. BROWN: We mailed a copy to the Court prior

Junjiang Ji - Direct/Troy

25

1 to the original trial date, around January.

2 THE COURT: Do you have an extra copy?

3 MR. BROWN: I have an extra copy.

4 THE COURT: I have no doubt we have that. I  
5 just don't have it in front of me.

6 Mr. Brown, was it a binder?

7 MR. BROWN: Yes.

8 (Handing to Court.)

9 A Sometimes I was able to receive more than \$2,000 a  
10 month.

11 THE COURT: Hold on. Let me look at the  
12 document, page 145.

13 Which tab, Mr. Brown? What color tab,  
14 Mr. Brown?

15 MR. BROWN: It should be the second to the last  
16 tab.

17 THE COURT: That starts at 242. I see. It's  
18 the blue tab?

19 There are handwritten notes on the left and  
20 clock-in, clock-out notes on the report.

21 MR. BROWN: Yes.

22 THE COURT: Continue.

23 MR. TROY: Your Honor, I believe the witness  
24 just testified. Would you like to translate?

25 THE COURT: Please read back the last answer.

## Junjiang Ji - Direct/Troy

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(Whereupon, the record was read back by the reporter.)

3 Q What is the percentage you get a pay on the cash  
4 during the months you get \$2,000?

5 A I believe I receive more cash than check.

6 Q You are talking on the occasions more than 50 percent  
7 cash and the check is less than 50 percent, is that right?

8 A That's for sure. Most of the payment was in cash,  
9 and the check only generates a small portion.

10 Q Would you like to estimate what is the percentage of  
11 your pay for cash or checks?

12 A I believe for checks, it was not more than  
13 20 percent. It would be less than 20 percent.

14 MR. TROY: Your Honor, I'm going -- I'm sorry.

15 Your Honor, I would like to show the defendant's  
16 document production Trial Exhibit 2014. That's the number  
17 of 401.

18 THE COURT: Which exhibit is that a part of,  
19 Mr. Brown? Do you know?

20 MR. BROWN: I believe that is part of Exhibit  
21 D-1.

22 THE COURT: Mr. Troy, is that part of Exhibit  
23 D-1.

24 MR. TROY: D-1.

THE COURT: For Exhibit 1, I have one Bates

Junjiang Ji - Direct/Troy

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1 stamped D-35.

2 MR. TROY: Page 401.

3 THE COURT: Right. His documents are divided  
4 into exhibits. Each one has a Bates stamp number.

5 I have D-401. That's part of a bank statement,  
6 I believe.

7 MR. TROY: Your Honor, please forget it.

8 THE COURT: Say that again?

9 I didn't understand the last thing you just  
10 said.

11 MR. TROY: Your Honor, regarding Exhibit 401, I  
12 don't need it for this witness.

13 THE COURT: So we're moving on.

14 MR. TROY: Yes, we're moving on.

15 Q Have you ever been paid overtime?

16 A No, I have never been paid.

17 Q Have you ever received the spread of hours in New  
18 York?

19 Before you answer, explain to you if you work  
20 for one day from you started to go to work until the time  
21 you are out of the work, it's more than ten hours. I go  
22 to one hour --

23 THE COURT: Sustained. Don't explain the law to  
24 the witness. Just ask him a factual question.

25 MR. TROY: Yes, Your Honor.

Junjiang Ji - Direct/Troy

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1 Q Do you work more than ten hours any day when you are  
2 an employee with Showa?

3 A Very often it was more than ten hours.

4 Q Did Showa, the restaurant, did Showa chk the  
5 restaurant pay you extra?

6 A No.

7 Q When you reached employment with Showa, did you read  
8 any labor poster in the restaurant?

9 A Because I don't know English. I don't know whether  
10 they were ever posted, those posters.

11 Q Have you ever see any poster in Chinese?

12 A No.

13 Q Never?

14 A Correct.

15 Q When the first day you come to the job, did the  
16 employer provide you pay notice?

17 A No.

18 Q When you reach employment with Showa every time you  
19 get paid, did you get pay stub?

20 A The pay stub was shown to me, and after we signed the  
21 name on the pay stub, it was taken back. It was not given  
22 to us.

23 Q On the pay stub, did it say how much the employer pay  
24 you per hour, how much they pay you if you work overtime,  
25 or did it say there is how many hours you are entitled to

Junjiang Ji - Cross/Brown

29

1       the spread of hours?

2       A      No.

3                  MR. TROY: Your Honor, I am finished on direct.

4                  THE COURT: You are finished.

5                  MR. TROY: Yes.

6                  THE COURT: Okay, cross-examination.

7                  MR. BROWN: May we have a five minute break.

8                  THE COURT: Five minutes, and then I want to  
9       keep this moving.

10                 MR. BROWN: All right.

11                 THE COURT: Mr. Troy, you are not to speak with  
12       your client while he's still testifying. Okay?

13                 MR. TROY: Yes.

14                 (Whereupon, a recess was taken.)

15                 THE COURT: Mr. Brown, let's begin.

16       CROSS-EXAMINATION

17       BY MR. BROWN:

18       Q      Good morning, Mr. Ji.

19                 Can you explain why you were unable to come to  
20       the courthouse today for your trial.

21       A      Because I'm in China.

22       Q      Why couldn't you come to the United States for your  
23       trial?

24       A      The United States did not give me the visa. I'm  
25       unable to come.

Junjiang Ji - Cross/Brown

30

1 Q When did you first come to the United States?

2 A In 2000.

3 Q And when you first came to the United States, what  
4 type of visa did you apply for?

5 A B-1 visa.

6 Q Do you know what purpose the B-1 visa's purpose is  
7 for?

8 A B-1 visa, I believe it belongs to the category of  
9 business investigation or business purpose.

10 Q And when you applied for the visa, what type of  
11 business were you going to conduct in the United States?

12 A I was conducting the international property or  
13 international energy. That's the air-conditioning and  
14 refrigerator.

15 Q Can you elaborate a little bit on that?

16 A What do you want me to elaborate?

17 Q What exactly was your intention as far as  
18 air-conditioning and refrigeration was in the United  
19 States. What kind of business were you planning on  
20 conducting?

21 A I was looking to see if there were any markets in the  
22 States, how the market was.

23 Q And when you came here, did you conduct any business?

24 MR. TROY: Objection, your Honor. It's  
25 irrelevant.

Junjiang Ji - Cross/Brown

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1           THE COURT: It's what?

2           MR. TROY: It's irrelevant.

3           THE COURT: Overruled.

4   A    Yes, I did.

5   Q    What was your first job when you came to the United  
6        States?

7   A    The first job in the United States was at the  
8        restaurant.

9   Q    And how long after you came, did you work at that  
10      restaurant?

11   A    I believe almost a year.

12   Q    So what did you do the first year when you were in  
13      the United States?

14   A    I was conducting and then I went anywhere.

15   Q    What do you mean by that?

16   A    I was looking at the US market to see if there was a  
17      market for the air-conditioning and refrigerator.

18   Q    And did you work for a company?

19   A    No.

20   Q    So what experience do you have to sell air  
21      conditioners or refrigeration in the United States?

22   A    What I learned. That was my major.

23   Q    What was your major?

24   A    Mechanical and refrigerating major.

25   Q    What type of education did you receive?

Junjiang Ji - Cross/Brown

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1 A College.

2 Q And was there a time limit on the amount of time you  
3 could spend in the United States based on your visa?

4 A I believe there was no.

5 Q So the first visa you applied for, the B-1 visa,  
6 there was no time limit on it?

7 A There was a time limit.

8 Q How long was that?

9 A Six months.

10 Q And how long did you intend on staying when you  
11 applied for the visa in the United States?

12 A I intended to go back in six months on time.

13 Q So why did you stay longer than six months?

14 A Because it seemed to me there were some jobs that I  
15 could work on. That's why I tried to stay here.

16 Q Did you attempt to renew your visa with anyone?

17 A I have one extension.

18 Q When did you receive that?

19 A Before it was expired.

20 Q Was that also for the B-1?

21 A The extension, yes.

22 Q And were you able to successfully complete what you  
23 were intending to do with your B-1 visa to find an  
24 air-conditioning or refrigeration job?

25 A No, it was not successful.

Junjiang Ji - Cross/Brown

1 Q Did you work with anyone in trying to find a market  
2 for the refrigerator market?

3 A No.

4 Q When did you start working at Showa Hibachi?

5 A September 25, 2006.

6 Q And did you apply for a position there?

7 A Correct.

8 Q And what was the process for applying for a position?

9 A He put up an advertisement in the newspaper and I  
10 made a phone call to the restaurant and on the phone I  
11 spoke to the boss's wife and she asked me to go over, and  
12 I took the subway pass to the restaurant location. At the  
13 last stop the boss's wife came to pick me up.

14 Q Pick you up from the train station?

15 A I was picked up at the last stop of NRE, that was a  
16 long name, and I was picked up there, on Long Island.

17 Q Did you first call the restaurant to inquire about  
18 the position?

19 A Yes.

20 Q And who typically picked up the telephone at the  
21 restaurant?

22 A When I first arrived in 2006, there was a lady from  
23 Malaysia who usually answered the phone. After that he  
24 was the boss's wife who answered the phone.

25 Q During the time there was a person there, a Malaysian

33

Junjiang Ji - Cross/Brown

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1 person, did the boss's wife also operate the telephone?

2 A If someone answered the phone call, then the boss's  
3 wife would not answer the call. She would do something  
4 else.

5 Q When you called, who picked up the phone? Was it the  
6 boss's wife or someone else?

7 A It was the boss's wife who answered the call.

8 Q And when you spoke with her, did you discuss the job  
9 at all?

10 A Yes, I did.

11 Q Over the phone?

12 A Yes.

13 Q What did you discuss with her?

14 A She asked me if I worked before and where I worked.  
15 And then I told her where I worked, and she asked me to  
16 come over. And after I went over, we talk about that and  
17 she asked me to stay.

18 Q During your deposition, I asked you the same  
19 question. This is on page 18, line 16.

20 Question: During the phone call that you had,  
21 did she discuss any of the details of the job with you?

22 Answer: On the phone we did not discuss. But  
23 when I arrived at the restaurant, yes, we talked about it.

24 So are you changing your testimony?

25 A There was no change. Just picking the words. How

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1       could we not discuss about this?

2       Q      Then why during your deposition did you say we did  
3           not discuss, but when I arrived, we talked about it?

4       A      Of course, I was asked about this and I can ask the  
5           attorney, when you look for a job, the boss definitely  
6           asks what is before and experience. Of course the boss  
7           would ask you such questions.

8       Q      But that was discussed on the phone?

9       A      Let me ask you a question. Is it necessary to stick  
10          on this question?

11                 THE COURT: Mr. Ji, you don't have to ask the  
12          questions here. Just answer the question unless there is  
13          an objection.

14                 THE WITNESS: Okay.

15       Q      So after the phone call, you went to the restaurant,  
16          correct?

17       A      After the phone call, she told me how to take the  
18          public transportation, and then I took the public  
19          transportation over there and the boss's wife picked me up  
20          and she drove me to the restaurant.

21       Q      When you got to the restaurant, were you interviewed?

22       A      There was an interview.

23       Q      Where was this interview held in the restaurant?

24       A      That was inside the restaurant. The exact location I  
25          do not recall.

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1 Q Do you know what time of day it was?

2 A I believe that was in the afternoon.

3 Q Do you know where that was?

4 A I do not recall.

5 Q Who was initially present when you first started the  
6 interview?

7 A I believe the boss and the boss's wife were both  
8 there.

9 Q Do you believe they were there?

10 A Yes.

11 Q And did both of them speak during this interview, or  
12 only one of them?

13 A I do not believe, but I believe both of them spoke  
14 with me.

15 Q Did you discuss your salary during the interview?

16 A Definitely it was discussed.

17 MR. BROWN: On page 19 of the transcript, I  
18 asked you during your deposition did you discuss what your  
19 salary would be, and you answered no.

20 So which is correct?

21 A The situation was like this. Initially they intended  
22 to pay me monthly salary, but I said to them for Japanese  
23 restaurant I was usually paid weekly salary and they said  
24 that then let us do it this way. Let me see how you work.

25 I said yes, of course -- I haven't finished.

Junjiang Ji - Cross/Brown

1                   When I received the first pay, they paid me \$100  
2 more, extra, and I returned the money to them.

37

3                   I'm finished.

4         Q     Why didn't you mention that at your deposition then?

5         A     I felt this matter was not important, related to this  
6 matter. That's why I did not mention.

7         Q     So during your deposition you only mentioned things  
8 that you felt were important?

9         A     I felt those issues that related to this matter, at  
10 the time of the interview, of course he asked me where I  
11 had been working, where or how. There was mention about  
12 this.

13        Q     Who was speaking when they told you this information  
14 about your salary?

15        A     It was more than ten years. The details I do not  
16 recall.

17        Q     Did you discuss the hours that you would be working?

18        A     He or she told me how many hours a day and how many  
19 days a week I would be working.

20        Q     And what did they tell you?

21        A     I was told I would be working six days a week and  
22 from what time to go to work and from what time to leave  
23 work.

24                   And this would be a job -- and transportation  
25 would be provided and at what time we would be picked up

## **Junjiang Ji - Cross/Brown**

1 to go to work and what time we would be picked up to leave  
2 work.

3 Q And what time did they say you would be picked up?

4 A In Flushing, that would be before 10:30 that the car  
5 would depart.

6 Q And who told you that?

7 A I do not recall which of the two said that to me.

8 Q What position were you originally hired for?

9 A That would be the helper in the kitchen.

10 Q You weren't hired as a cook?

11 A I was also a cook. There were two cooks in the  
12 kitchen. One teriyaki and the second was a tempura.

13 Mr. Ji was the teriyaki cook.

14 Q And did your position ever change?

15 A Later on it was changed.

16 Q And what was it changed to?

17 A It was changed to cook.

18 Q And when did the change happen?

19 A After Mr. Ji left.

20 Q And when was that? What date?

21 A I believe that was either in 2007 or 2008 around.

22 Q And when you first started at Showa Hibachi, who was  
23 your supervisor in the kitchen?

24 A Mr. Yi, Y.-I.

25 Q You said he left around 2007, or 2008?

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1 A Yes.

2 Q So after Mr. Yi left, who filled that first position?

3 A That was me.

4 Q So did you become the supervisor in the kitchen then?

5 A I believe, yes.

6 Q Who would you consider to be the boss at Showa  
7 Hibachi?

8 A The older boss and the older boss's wife, the two of  
9 them were the real owners of the restaurant.

10 Q Anyone else?

11 A The boss's son Jia Ling Hu was the son.

12 Q While at Showa Hibachi, who would hire an employee?

13 A Also the boss and the boss's wife, the two of them.

14 Q How do you know them?

15 A Of course, that would be the boss and the boss's  
16 wife, whoever they wanted to continue there or whoever  
17 they wanted to hire.

18 Q How do you know that the boss and the boss's wife  
19 both hired people?

20 A Today this person did not continue to work and the  
21 next day another person came over.

22 Q So how do you know who hired that person?

23 A Of course that would be the boss who hired the  
24 person, employees. They had power to hire people.

25 Q You said the boss and the boss's wife both hired

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1           people. How do you know they both hired people?

40

2           A     Of course that would be the decision of the two. As  
3                   to who made the decision, I don't know.

4           Q     Did you ever witness the boss's wife hiring someone?

5           A     I don't know how to say this word, this sentence.

6                   Let's say today this person, he's working there and the  
7                   next day another person came over and as to who made the  
8                   decision, which person made the decision, I don't know.

9           Q     You said --

10                  THE COURT: Mr. Brown, we'll take a lunch break  
11                   when you get to a good spot.

12                  MR. BROWN: Five or ten minutes.

13           Q     Were persons fired at the restaurant?

14           A     I don't know how to distinguish, whether the  
15                   employees were fired or terminated.

16           Q     Did you ever witness an employee being fired or  
17                   terminated?

18           A     That was this person who worked for the day and the  
19                   next day would not be there. I don't know whether the  
20                   person was fired or terminated.

21           Q     Did you witness anyone at the restaurant telling  
22                   someone else that they were fired?

23           A     I can't tell the difference, whether the employee was  
24                   terminated or fired. And for one time there was a hibachi  
25                   employee, a sushi, the name is Scorfi (ph) and the boss

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1 and the boss's wife were occupants on this person and the  
2 next day Scorfi didn't come to work anymore.

3 Q But you didn't hear this person being told they were  
4 being fired?

5 A No.

6 MR. BROWN: That would be a good time for a  
7 break.

8 THE COURT: You have to speak louder, Mr. Brown.

9 MR. BROWN: Sorry, this would be a good time for  
10 a break.

11 THE COURT: We'll be back at 1:45. Mr. Troy,  
12 please don't speak to your client during this time.

13 THE INTERPRETER: What time, your Honor?

14 THE COURT: 1:45.

15 (Whereupon, a recess was taken.)

16 (Continued on the following page.)

17

18

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1                           A F T E R N O O N     S E S S I O N

2

3                           THE COURT: Ready to resume cross-examination.

4       Q    Mr. Li, where are you physically located?

5       A    I'm in Tianjin.

6       Q    Is that in mainland China?

7       A    Correct.

8                           MR. BROWN: Your Honor, we went over this a  
9                           number of times. When we went over the deposition, it  
10                          can't be transmitted from a location at mainland China.  
11                          It has to be done from Hong Kong or Taiwan. We agreed to  
12                          that. We had a discussion three times that we've been  
13                          before the Court, so I do not understand why it is being  
14                          broadcast out of Tianjin.

15                          THE COURT: Okay. What do you want?

16                          MR. BROWN: This is in direct violation of the  
17                          Court order. This is in violation of Chinese law as we've  
18                          gone over it.

19                          THE COURT: I have no idea what Chinese law is.  
20                          You can deal with that in due course. Right now we're  
21                          doing cross-examination.

22                          You're right. We've been over this. Continue  
23                          with your cross-examination.

24                          MR. BROWN: Thank you, your Honor.

25       Q    What was the schedule at the restaurant?

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1 A The boss's wife schedule, work schedule.

2 Q How do you know that the boss's wife did the  
3 schedule?

4 A If not arranged by the two of them, who will arrange  
5 them?

6 Q Well, I'm asking how do you know if the boss's wife  
7 in particular scheduled and not the boss?

8 A I don't know whether it was the boss or the boss's  
9 wife that arranged that, but we listen to either one of  
10 them.

11 Q So you are not sure who made the schedule between the  
12 two of them?

13 A I don't know actually who the person was.

14 Q How were the schedules set?

15 A They posted in the store at the restaurant and we  
16 were notified when we would be pick up. That's the time  
17 we were supposed to start to work.

18 Q Who did you speak to if you needed a day off?

19 A We have to set a schedule for the day off. Let's say  
20 you are supposed to have a Tuesday off. No one has to  
21 tell you. You just had to take a day off.

22 Q If you needed a day off for medical reasons, who  
23 would you ask for a day off?

24 A If I wanted to ask for a leave I could either speak  
25 to the boss or the boss's wife. Either one of them.

Junjiang Ji - Cross/Brown

1 Q Did you ever speak to the boss's wife and request a  
2 day off from her?

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3 A I believe, yes.

4 Q Besides yourself, did anyone else supervise the work  
5 of the kitchen employees?

6 A I believe I was not supervising the kitchen either.  
7 As a matter of fact, I was just working longer at the  
8 restaurant than the other person. There were only two  
9 people in the kitchen, so I would take more  
10 responsibilities.

11 Q Was there anyone who would tell employees what to do  
12 within the kitchen?

13 A No one told anybody to do anything. When we have the  
14 orders, we just accommodate. If there were no orders, we  
15 just do the side work and we did the job by ourselves.

16 Q What would the boss do at the restaurant on a  
17 day-to-day basis?

18 A Sometimes he was working in the front and busy doing  
19 something.

20 Q Do you know what he was doing?

21 A Sometimes he did the job waiting, and doing the  
22 dishes.

23 Q Did you ever observe what the boss's wife did on a  
24 day-to-day basis?

25 A She served as the hostess and cashier.

Junjiang Ji - Cross/Brown

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1 Q Anything else?

2 A Sometimes she also served as the waitress.

3 Q Do you know how often she was at the restaurant?

4 A She very often was in the restaurant.

5 Q Was she at the restaurant during the daytime?

6 A Yes.

7 Q Every day?

8 A Basically every day.

9 Q And what about the boss's son? Did you observe what  
10 he did on a day-to-day basis?

11 A Because he sometimes served as the host and sometimes  
12 he worked at the bar, basically.

13 Q Did you ever observe him supervising any employees?

14 A Of course if something happened, he would say  
15 something.

16 Q Can you give me a specific example?

17 A On one occasion when I was doing the cleaning, and he  
18 told me what to do and what to do. He said to me --

19 Q What did he tell you to do?

20 A He told me to sweep the floor and mop the floor and  
21 do all the cleaning in the kitchen, that kind of job in  
22 the kitchen.

23 MR. BROWN: Page 31 of your deposition. I asked  
24 did he ever supervise kitchen workers and you responded  
25 no.

Junjiang Ji - Cross/Brown

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1           So why are you telling me now that he's  
2 supervising you?

3       A    Basically he did some supervising job at the  
4 restaurant and during the ten years I worked there most of  
5 the time it was the boss and the boss's wife that  
6 supervised the job, but for those ten years he never said  
7 something about the kitchen. That's impossible.

8       Q    So was it only the one time that he asked you to  
9 clean?

10      A    There were several times, because I worked there  
11 close to ten years, there should be more than one time.  
12 Several times.

13           And sometimes when the liquor arrived on the  
14 first floor, he would ask the other employees and also ask  
15 me to move the liquor into the basement.

16      Q    If you are stating all these examples now why are you  
17 saying that he didn't supervise at your deposition about  
18 then most of the time he was the boss and the boss's wife  
19 who said that.

20      A    So he's not saying much. That is the important part  
21 and that wasn't the minor part.

22      Q    During your deposition I asked were there any other  
23 bosses beside the boss and his wife.

24           You responded, I heard about the name the  
25 company had been changed and their son became the boss but

Junjiang Ji - Cross/Brown

1       as a matter of fact the boss and his wife were in charge  
2       of the operation.

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3                   So would you say the boss and the wife were in  
4       charge of the operation at all times?

5       A     Yes, correct. Mainly it was the boss and his wife  
6       who was in charge.

7       Q     Did you ever witness the boss's son hire or fire any  
8       employees?

9       A     I don't recall.

10      Q     What was your rate of pay when you first became  
11       employed by Showa Hibachi?

12      A     \$500 per week.

13      Q     And did that ever change?

14      A     Later on it was changed and it was increased.

15      Q     Do you recall what it was changed to?

16      A     \$630 per week.

17      Q     And when did the change occur?

18      A     I believe it was either in 2007 or 2008.

19      Q     And who told you about the change?

20      A     At the time I received the pay when I looked at the  
21       pay stub, I realized that.

22      Q     So no one told you?

23      A     I don't recall if someone ever told me.

24      Q     You said earlier during your direct testimony you  
25       received \$105 per day; is that correct?

Junjiang Ji - Cross/Brown

1 MR. TROY: Objection, your Honor. I don't think  
2 that is exactly the answer he had. I believe the answer  
3 he told me, he was paid weekly and if he worked more days,  
4 he's going to get more. If he work less day, then he will  
5 get less.

6 THE COURT: Overruled.

7 Repeat the question please, Mr. Interpreter.

8 | (Interpreter complies.)

9 A I did not say that.

10 Q If you worked one day more than your regular  
11 schedule, would you receive more compensation?

12 A Yes.

13 Q And how much more?

14 A 630 divided by 6.

15 Q So is that \$105?

16 A Yes.

17 Q So it would be fair to say that your salary was based  
18 on a daily rate of \$105 per day?

19 A No.

20 Q Did you ever work half days?

21 A Occasionally, yes.

Junjiang Ji - Cross/Brown

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1       worked a half day?

2       A     As a matter of fact, I worked there for almost ten  
3       years. Only once or twice I worked a half day. As to  
4       exactly how much they paid me, I don't recall.

5       Q     But you said your work was adjusted, you didn't get  
6       regular pay deducted from your salary?

7       A     Yes.

8       Q     Do you recall how much?

9       A     Yes.

10      Q     When you received your salary, when you received your  
11       pay, were you required to sign any papers?

12      A     We were given a piece of documents and required us to  
13       sign our names. After we signed our names, it was taken  
14       back.

15      Q     Do you recall what was on the paper?

16      A     There were names and how much money, and if there was  
17       a check how much for the check and how much for the cash.

18      Q     Would it affect your employment if you didn't sign  
19       this paper?

20      A     Yes.

21                    MR. BROWN: Excuse me, your Honor.

22                    (Counsel confer.)

23                    MR. BROWN: Your Honor, I just conferred with  
24       Mr. Troy. He consents to the admission of the pay stub  
25       records.

Junjiang Ji - Cross/Brown

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1           THE COURT: I cannot hear you.

2           MR. BROWN: Sorry. I spoke with Mr. Troy, he  
3        said he would consent to the admission of one of the  
4        exhibits.

5           THE COURT: Okay. Which one?

6           MR. BROWN: This is Exhibit, D-6, Bates stamp  
7        D00242 through D00259.

8           THE COURT: Okay. No objection; is that  
9        correct?

10          MR. TROY: Your Honor, I would like to check.

11          THE COURT: Sure, take a look.

12          MR. BROWN: Sorry.

13          THE COURT: No problem.

14          MR. BROWN: For purposes where we are now, we're  
15        looking at document number D0094 through D00241.

16          THE COURT: Those are not in D-6 though.

17          MR. BROWN: This is not D-6. This is D-5.

18          THE COURT: D-5? And give me the Bates stamp  
19        numbers again.

20          MR. BROWN: D94 through D241.

21          THE COURT: Is that what you are consenting to  
22        be admitted into evidence, Mr. Troy?

23          MR. TROY: No, your Honor. We only consent to  
24        to when he was paid, we only consent to the writing over  
25        there (indicating). Only the writing part, not in the

Junjiang Ji - Cross/Brown

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1 check-in, check-out part.

2 THE COURT: So you don't consent?

3 MR. TROY: No, your Honor.

4 THE COURT: Okay. So you have to get them into  
5 evidence, Mr. Brown.

6 BY MR. BROWN:

7 Q Mr. Ji, do you have the exhibit, what was intended  
8 for the trial, with you right now?

9 A At that time I got it from there, yes.

10 MR. TROY: Your Honor, I don't think defense  
11 counsel, he just provide the exhibit this morning. Even  
12 to say the documents is different from the one he has  
13 admitted to the Court. He mentioned before that time. So  
14 I don't think our client has any exhibit for the trial at  
15 all.

16 THE COURT: Okay. What does he have, Mr. Brown?

17 MR. BROWN: We submitted these documents months  
18 ago.

19 THE COURT: To?

20 MR. BROWN: To Mr. Troy.

21 THE COURT: And you didn't give a copy to your  
22 client.

23 Mr. Troy, this is done for your convenience, not  
24 Mr. Brown's. Your client doesn't show up for his own  
25 trial. Don't hang this on him. Why didn't you give a

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1 copy of the exhibits to your client?

2 MR. TROY: Your Honor, the copy of that is  
3 totally different --

4 THE COURT: Yes, it was given to you months ago  
5 and you asked that your client come do it by video rather  
6 than come into court. Don't you think your client  
7 wouldn't need a copy of this?

8 MR. TROY: We thought we could do it through the  
9 video.

10 THE COURT: Are you kidding? This is a problem.  
11 What is Mr. Brown to do, hold it up to the screen?

12 Ten minutes.

13 (Whereupon, a recess was taken.)

14 THE COURT: We're back on the record.

15 Before the short break, Mr. Troy objected to  
16 Mr. Brown using exhibits for which his client, which  
17 Mr. Brown provided to his client months ago and Mr. Troy  
18 didn't provide it to his client.

19 We're going to end Mr. Ji's cross-examination.  
20 I don't care what it cost, but you will send your client a  
21 copy of all the exhibits.

22 In the meantime you will put on your other  
23 client. We'll continue with the trial and we'll circle  
24 back after Mr. Ji gets the exhibit and you will be able to  
25 cross-examine him too so you'll have the ability to

Junjiang Ji - Cross/Brown

1                   cross-examine him with his own documents. Is that fair? 53

2                   MR. TROY: Your Honor, there is evidence  
3                   Document 94.

4                   THE COURT: Yes.

5                   MR. TROY: To 241. Plaintiff admitted to put  
6                   this into evidence.

7                   THE COURT: But if you admit it in evidence he  
8                   can cross-examine your client with the documents that your  
9                   client doesn't have in front of him. I don't want your  
10                  client to guess what the documents said. I think what  
11                  we'll do, remove that subset of documents into a single  
12                  exhibit. Tomorrow we'll admit them by consent. In the  
13                  meantime that is separate.

14                  In the meantime Mr. Ji will step down or stop  
15                  testifying. Your other client, Mr. Li will take the stand  
16                  and you'll do his direct and we'll continue, and tonight  
17                  we'll conclude for the day. You need to FedEx those  
18                  binders to your client.

19                  Mr. Interpreter, I'll need your help in  
20                  translating that.

21                  THE WITNESS: I have something to say, excuse  
22                  me.

23                  THE COURT: No, he could talk to his client  
24                  after court -- I'm sorry, to his attorney after court and  
25                  Mr. Troy can decide to do something. He can communicate

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1           that tomorrow morning.

2           Doesn't he want to listen to the rest of it?

3           Mr. Feng, did you tell him he should leave?

4           THE INTERPRETER: I just translated what you  
5           said. He will speak to his attorney only.

6           THE COURT: The reason I bring this up, he  
7           obviously has a right to watch his trial and now he can't  
8           hear you.

9           You can send an e-mail to your client so he can  
10          listen to the testimony. Of course he has that right.

11          MR. TROY: Yes, your Honor.

12          THE COURT: In the meantime put your other  
13          client on the stand and we'll continue. Also tell me  
14          tomorrow when you expect the package to arrive at Mr. Ji's  
15          residence or wherever he is.

16          MR. TROY: Your Honor, if I may. The evidence  
17          is repetitive, 100 percent repetitive, so we only take  
18          only maybe three minutes.

19          THE COURT: That's fine. If that's what it  
20          takes, do whatever makes sense strategically. It still  
21          will be subject to whatever Mr. Brown decides to  
22          cross-examine. That's fine. Put your witness on the  
23          stand.

24          MR. TROY: So we continue with the next witness?

25          THE COURT: Yes, please.

Decheng Li - Direct/Troy

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1           This is your on the client, Mr. Li?

2           MR. TROY: Yes.

3           Your Honor, we'll call Mr. Decheng Li.

4           THE COURT: Let's swear him in with the  
5 interpreter's assistance.

6           THE CLERK: Please raise your right hand.

7           **DECHEUNG LI,**

8           called as a witness, having been first  
9           duly sworn, was examined and testified  
10          as follows:

11           THE COURT: Please be seated.

12           THE COURT: Mr. Troy, your witness.

13           MR. TROY: Your Honor, may I approach?

14           THE COURT: Yes. Mr. Brown, you may approach  
15          too. We're very lacks here about that kind of thing.

16          Okay.

17          DIRECT EXAMINATION

18          BY MR. TROY:

19           THE COURT: You have to keep your voice up.

20          It's very hard to hear your voice without the microphone.

21           MR. TROY: Yes.

22          Q      Mr. Li, would you like to state your name for the  
23          record?

24          A      My name is Decheng Li.

25           THE COURT: Give your best spelling.

Decheng Li - Direct/Troy

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1 THE WITNESS: DECHENG, last name LI.

2 Q Mr. Li, do you happen to know if there is a  
3 restaurant named Showa Hibachi?

4 A Correct. The full name is Showa Hibachi Restaurant.

5 Q How do you know the restaurant Showa Hibachi?

6 A I saw the advertisement in the newspaper and then I  
7 looked for the shop over there.

8 Q What kind of newspaper did you read?

9 A The Chinese World Journal.

10 Q Do you remember what is in the newspaper, on the  
11 advertisement?

12 A They were looking for a kitchen chef for the Japanese  
13 restaurant.

14 Q After you read the advertisement, what is your  
15 response?

16 A I needed a job at that time so I made a phone call  
17 over there.

18 Q And then what happened?

19 A And after I made a phone call, I later on realized it  
20 was the boss's wife who answered the call.

21 Q Did you have any conversation during the phone call?

22 A I said I was looking for a job.

23 Q What was their response?

24 A She asked me if I had worked before.

25 Q What is your reply?

Decheng Li - Direct/Troy

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1 A I said I worked for many, many years.

2 Q And what happened next?

3 A She asked me to go to work there.

4 Q What kind of conference you have on the phone, except  
5 for whatever you say to us already.

6 Do you remember?

7 A She asked me to wait at Main Street and Franklin  
8 Avenue, to wait at 11:30.

9 Q Same day or next day?

10 A I was asked to go on the next day.

11 Q Did you go on the next day?

12 A I did.

13 Q Okay. What happened on the next day at 11:30?

14 A At 11:30 I waited at the Main Street and Franklin  
15 Avenue, the building, to wait for the commuting vehicle.

16 Q What's happen when the vehicle came?

17 A I was already taken over there. I was going to the  
18 restaurant directly.

19 Q How do you get into the vehicle, transporting  
20 vehicle?

21 A We all waited there. Several people, yes.

22 Q Were you introduced to other people, or how did you  
23 get to know them?

24 A The first time she recorded my phone number and also  
25 told me what kind of vehicle and what color of the vehicle

Decheng Li - Direct/Troy

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1 to get on.

2 Q Who called you.

3 A The boss's wife.

4 MR. TROY: Your Honor, I was told he cannot  
5 hear. So maybe I need to go back.

6 THE COURT: Probably.

7 MR. BROWN: Do you know where the mute is that  
8 feeds to the courtroom? There's a lot of background.

9 THE COURT: Let's find out.

10 THE INTERPRETER: Your Honor, he might not be  
11 able to hear me.

12 THE COURT: So you probably need to stand with  
13 Mr. Troy there by the mike.

14 Perhaps you can put the volume down on the  
15 computer. They wanted Mr. Ji to be able to hear what is  
16 happening in the courtroom.

17 We'll call the tech department to try to be able  
18 to mute the background that is transmitting into the  
19 courtroom.

20 (Pause in proceedings.)

21 THE INTERPRETER: Do you want me to ask him if  
22 he can hear over there?

23 THE COURT: Yes.

24 Okay. Good. Thank you. Let's continue.

25 Q Can you tell us what happened when you arrived at the

Decheng Li - Direct/Troy

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1 restaurant, the first day?

2 A The first day his wife told me I would be working  
3 four days a week and receive \$420 per week and working in  
4 the kitchen as a kitchen cook.

5 Q Do you remember when was the day?

6 A I believe that was in August of 2014.

7 Q And what happened next?

8 A I work four days because I worked as the kitchen cook  
9 for a long, long time. For many years, because I worked  
10 in the states for many years as a kitchen cook and there  
11 were some things that I saw and I raised my issues.

12 Q Who did you raise the issue to?

13 A I said my opinion to my boss's wife.

14 Q What kind of opinions did you have?

15 A Because the problem the restaurant had was not the  
16 issue of behavior of morality, but the problems had  
17 already touched the bottom line against the rules and the  
18 laws of the United States here. Because I raised a lot of  
19 issues, the boss's wife was not satisfied with me, with a  
20 lot of satisfaction.

21 Q What exactly was the issue you have, you say, to the  
22 employer?

23 A If I discuss about these issues, and I believe, your  
24 Honor, and the lady in this courtroom will not reach the  
25 bottom lines of the legal system in the states.

Decheng Li - Direct/Troy

On two occasions I made phone calls to 311. The first one was at the spring festival of 2015 and the second time was in August of 2015. I called 311.

4 MR. TROY: Hold on. Mr. Li, now we are talking  
5 about what happened on the first couple of days of your  
6 employment.

7                   THE WITNESS: The first one or two days, for all  
8 the issues I witnessed, including the year the sanitation  
9 and things like that, I said to the boss and the boss's  
10 wife.

11 Q Do you remember the first time you were employed at  
12 the restaurant, how long you had been working over there  
13 in 2014?

14 A I worked from August 2014 until June of 2015.

15 Q Just now you are talking about you worked four days  
16 per week, but would you like to tell us what time you  
17 start work every day, every four days of the week?

18 A On weekends, Friday and Saturday, I was picked up at  
19 11:30 and arrived at the restaurant at 12, and I work  
20 until 11:00 p.m. for Friday and Saturday.

21 Q You were picked up at 11:30. That means you arrived  
22 at the restaurant around 12 o'clock?

23 A At 12 o'clock I arrived at the restaurant

Q How about the other two weekdays?

25 A The other two days and also I was picked up at 11:30

Decheng Li - Direct/Troy

1 at the wife's restaurant and I work until 10 o'clock in  
2 the evening.

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3 Q How do you go to work every day?

4 A The boss arranged the transportation vehicle for us  
5 to go to work.

6 Q During your employment, do you have any break hours  
7 in the day?

8 A Our work schedule at the restaurant for weekdays it  
9 was from 12 o'clock to 10. From weekend from 12 o'clock  
10 to 11.

11 Q Did the restaurant have any break hours during the  
12 day?

13 A If there were no customers, we had to wait there.  
14 There was no fixed break time. We had to stay at the  
15 restaurant.

16 Q Let be specific. From 3 to 5 in the afternoon, did  
17 the restaurant have break hours?

18 A There was not a break time during that period of  
19 time. There would be orders to make, take-out to do and  
20 cleaning to take care. And the restaurant did not close  
21 for any period of that time, even for Hibachi or eating or  
22 take-out.

23 Q Did you take meals during your workday?

24 A Yes, I have meals.

25 Q How many meals do you have during the day?

Decheng Li - Direct/Troy

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1 A Lunch and dinner.

2 Q Do you have fixed time for the lunch or dinner?

3 A Lunch would be served approximately from 2:50 to  
4 3 o'clock. For dinner, weekdays it would be at 9 o'clock.  
5 For weekends it would be at 10 o'clock p.m.

6 Q Did you eat your meals? If the restaurants get  
7 orders from customers, what did you do?

8 A Anytime. We work on the order first.

9 Q Are you telling us you stop your meals and then you  
10 do the order for the customer first?

11 A Yes.

12 Q This sometimes happen or it happens always?

13 A The mealtimes are okay, but from 3 to 5 it was very  
14 often that there was eating, take-out and Hibachi and  
15 customers came in and very often it happened.

16 Q So the restaurant did not close from 3 to 5?

17 A Yes.

18 Q During your employment, do you know how many  
19 employees in the restaurant, total?

20 A There are altogether six employees, two in the  
21 kitchen, two Hibachi and one waitress, and one is a sushi  
22 man. And on weekend there would be one additional  
23 part-time.

24 Q Would you like to tell us how many days, you know,  
25 how many days the restaurant worker works, including you

Decheng Li - Direct/Troy

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1 and Mr. Ji.

2 You are in the kitchen and chef. How many days  
3 did you and Mr. Ji work per week?

4 A When I started working there, each of us worked four  
5 days.

6 Q Are you telling us seven days a week you are over  
7 there with another kitchen chef for only one day?

8 MR. TROY: I don't know if there was answer.

9 THE COURT: I can't hear you.

10 MR. BROWN: I don't understand the question.

11 THE COURT: Why don't you reword the question  
12 and you'll start again.

13 Q Are you telling us you only work alone for the three  
14 days and you only have your kitchen part one day on each  
15 week? Am I right?

16 THE COURT: Only have your kitchen what?

17 That was also two questions, Mr. Troy.

18 MR. TROY: Okay.

19 Q How many kitchen workers works every day?

20 A Hibachi and waitress and the sushi. In the kitchen  
21 there was another coworker.

22 Q How many people work in the kitchen every day?

23 A Just one. Other than Sunday, there would be two.  
24 Other than Sunday, there was always one.

25 Q Other than Sunday or other than Saturday?

Decheng Li - Direct/Troy

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1 A Saturday.

2 MR. TROY: Thank you.

3 Q How many waiter or waitress work every day?

4 A There was one.

5 Q Okay. How about the Hibachi? How many Hibachi chef  
6 work every day?

7 A There are two every day, but each of them worked five  
8 days. Sometimes there was one.

9 Q So two days they have only one Hibachi chef in the  
10 restaurant?

11 A Yes.

12 Q So if you work in the kitchen, you don't show up in  
13 the early morning, there is no kitchen chef in the morning  
14 for the lunch session; am I right?

15 A Correct.

16 Q But did it happen or did it never happen, you don't  
17 have kitchen chef for the lunch?

18 A No, from lunchtime until the restaurant closed, it  
19 was operating normally at the restaurant.

20 Q During your employment, did boss, boss wife and boss  
21 son work at the restaurant too?

22 A Yes.

23 Q How often the boss went to the restaurant?

24 A The boss and his wife were at the restaurant every  
25 day.

Decheng Li - Direct/Troy

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1 Q How long did the son start too?

2 A Sometime he was there four days, sometimes a half  
3 day.

4 Q What do you mean half day?

5 A He came after 4 o'clock in the afternoon.

6 Q Do you remember how many days he went to work for  
7 half days a week?

8 A I believe two half days and one full day.

9 Q How much did you get pay a week?

10 A 420.

11 Q Who pay you?

12 A It was written by boss's wife and handed over to me  
13 by the boss and I signed the document and it was taken  
14 back. The document was taken back.

15 Q You are talking about taking it from whom?

16 A Sometimes the boss took it back and sometimes I  
17 directly gave back to the owner's wife.

18 Q How did you get paid?

19 You are paid by cash or you are paid by check?

20 A All cash.

21 Q When you got pay by cash, did you get tax  
22 withholding?

23 A No.

24 Q During your employment, did your working hour ever  
25 change?

Decheng Li - Direct/Troy

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1 A No.

2 Q Did your pay ever change?

3 A No.

4 Q When is the last day of your employment?

5 A I believe I worked until the end of June. Whether it  
6 was on June 30th or which day, I do not recall, but it was  
7 the end of June, 2015.

8 Q You quit or you get fired?

9 A I was fired by the boss's wife.

10 Q Would you like to tell us why?

11 A Because I filed a complaint in front of the boss's  
12 wife.

13 Q You are talking about you raised your complaint with  
14 the boss's wife?

15 A Correct.

16 Q What kind of complaint do you have?

17 A In front of other people, she insisted on ruining  
18 rice, over 100 pounds of rice, to use that, and I objected  
19 it.

20 Q What is wrong with the rice?

21 A There was mold on the rice and it became green.

22 Q So you object to the cook or the customers?

23 A Yes.

24 Q That's the only dispute you have with the employer?

25 A That was one of the issues.

Decheng Li - Direct/Troy

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1 Q What are the others.

2 A And also the lobster tail that was already became  
3 rotten and smell.

4 In addition, they take those leftovers by the  
5 customers, such as beef, steak, chicken, shrimp and  
6 scallops into the can in the kitchen.

7 Q What did you do about it?

8 A He asked the kitchen chef to cook the leftover from  
9 the customers such as beef, chicken, shrimp and scallop to  
10 be cooked, those food.

11 They cook this food as promotion to the ice  
12 cream provider because they provided the ice cream to the  
13 parties, so in turn he gave them this recooked food.

14 There was a customer who made a large order,  
15 over \$100. Two Hibachi steak and two Hibachi shrimp. It  
16 happened on a Saturday. As a result, the customer did not  
17 come to pick it up. In the evening they brought them  
18 home.

19 On Tuesday, the boss and the boss's wife came  
20 back to the kitchen and asked me if there were orders that  
21 came in, just use them first.

22 Obviously by looking at it, the two orders of  
23 the steak and the two order of shrimp had been consumed,  
24 and those were leftovers. I also took pictures of the  
25 food and the receipt for the orders.

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1 Q So you had a dispute with your employer.

2 Finally what happened? You, after the dispute,  
3 what happened.

4 A Soon they realized I was a disgusting (sic) person,  
5 and that's why I was fired.

6 Q When you disputed with the employer, did you do  
7 anything else?

8 A No other issues. I just leave my job.

9 Q Did you complain to any other people or other agency?

10 A I made two phone calls to the 311, but the 311  
11 operator in the county did not belong to the 311 area. I  
12 should file a complaint to the New York State or the  
13 Nassau County.

14 After discovering, I felt uncomfortable so I  
15 disclosed to all my friend and landlord and all my friend  
16 knew about this.

17 Yesterday I met a friend of mine and this person  
18 is still in Flushing and he used to work at the restaurant  
19 for a period of time and he also knew they used the  
20 garbage to serve the customers.

21 Q When was your last day of the employment?

22 A I believe I worked until the end of June of 2015.

23 Q How much money did you make during your employment  
24 with Showa?

25 A Maybe a total of \$16,000 (in English).

Decheng Li - Direct/Troy

1 MR. TROY: Mr. Li, you have to speak in Chinese.<sup>69</sup>

2 THE WITNESS: Okay.

3 Q Do you happen to know how much money the kitchen  
4 department can make each week or each day or each month?

5 THE COURT: Pick one, Mr. Troy.

6 Sustained. Rephrase the question. Which one do  
7 you want him to answer?

8 Q Do you happen to know how much money the kitchen  
9 department generate every month?

10 A It was accustom for kitchen checks to ensure that  
11 they would generate more income for the restaurant. So  
12 every evening I took a look at the orders that we received  
13 and I believe we would have \$11,000 per month from the  
14 kitchen.

15 Q Do you happen to know how much money the restaurant  
16 in total generates each month?

17 A Approximately between 49,000 to 52,000.

18 Q How do you come to the number?

19 A From the kitchen where we make about 11,000.

20 As for the Hibachi, because sometimes if they  
21 were busy we would have to help them to prepare the  
22 ingredients, based on \$35 per head and also based on the  
23 tips received per head, and we also discussed on the way  
24 back in the evening back to Flushing, we come up with  
25 these figures.

Decheng Li - Direct/Troy

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1 Q How about the department with sushi?

2 A Sometimes when we have time we check it with the  
3 sushi man and he would say today we had \$250 in business,  
4 sometimes more than 300, sometimes more than 350.

5 MR. BROWN: Objection, hearsay.

6 THE COURT: Sustained.

7 Q Did you happen to receive the orders during your  
8 employment, the order slips?

9 A What do you mean by order slips?

10 Q Have you ever seen any orders at different  
11 departments from your kitchen department?

12 A Yes.

13 Q What is it you see?

14 A The orders from the hibachi department.

15 Q How did you see it or how did you see them?

16 A Because sometimes when they were busy, I would go  
17 over to have them prepare the ingredients for the dishes.

18 Q Have you ever seen any orders yourself at different  
19 departments?

20 A I personally saw it.

21 Q How about the kitchen department. Did you ever see  
22 any orders yourself or other departments like sushi or --

23 A Sometimes when there was nothing to do in the  
24 kitchen, I was standing at the sushi bar. I was able to  
25 see those orders at the sushi bar.

Decheng Li - Direct/Troy

1 Q Do you know what is the percentage of the credit card  
2 sales or the cash revenue, the percentage in the  
3 restaurant?

4 A I believe I heard them say that for credit card  
5 payment would be between 30 percent to 40 percent.

6 Q Are you talking about cash or are you talking about  
7 credit card?

8 A 30 to 40 percent, that was cash.

9 Q And how do you know it?

10 A I heard the others from the restaurant say that.

11 Q Usually what kind of location you have a conversation  
12 with employees during your employment?

13 A Sometimes I'll talk about it in the kitchen,  
14 sometimes when we have meals, when we sit down we talk  
15 about it.

16 Sometimes when we are on our way back in the  
17 vehicle.

18 MR. TROY: Your Honor, I have no questions for  
19 the direct.

20 THE COURT: All right. Cross-examination,  
21 Mr. Brown.

22 MR. BROWN: Yes, your Honor.

23 (Continued.)

24

25

Decheng Li - Cross/Brown

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1       CROSS-EXAMINATION

2       BY MR. BROWN:

3       Q      Good afternoon, Mr. Li.

4       A      Good afternoon.

5       Q      What is your date of birth?

6       A      January 30, 1959.

7       Q      Have you ever been convicted of a crime in the United  
8       States?

9       A      I don't understand whether I committed any crime in  
10      the states. What do you mean committed a crime?

11      Q      Convicted?

12      A      I was not committing any crimes. Anyway, I had one  
13      argument with my ex-girlfriend.

14      Q      And did that result in you being convicted of any  
15      crime?

16      A      I don't know. Nobody bail me out and there was no  
17      fine. I was released anyway.

18      Q      What is your native language?

19      A      Mandarin.

20      Q      And do you read and speak English?

21      A      No.

22      Q      I heard you respond earlier in English. Can you  
23      speak at least a little English.

24      A      Earlier the reason I spoke English was when I said  
25      something that I was very angry and I was very exciting.

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1 That's why I spoke out by myself.

2 Q When you are angry or excited, you can speak English?

3 A I did not take any English classes and I just spoke  
4 English myself and my native language is Mandarin.

5 Q And when did you start working at Showa Hibachi?

6 A In August of 2014.

7 Q Did you work at Showa Hibachi at all prior to that?

8 A You are talking about Showa Hibachi?

9 Q Correct.

10 A In 2014, in April, I believe I work two or three days  
11 at the restaurant.

12 Q And you worked two or three days total in April?

13 A Correct.

14 Q Why did you work for such a short period of time?

15 A Because a friend of mine just opened a restaurant and  
16 he knew I worked at the restaurant before, and I went to  
17 help him to operate the new restaurant.

18 Q At your deposition you stated you worked there for a  
19 short period of time because they weren't giving you  
20 enough days to work; is that correct?

21 They weren't giving you enough days to work per  
22 week?

23 A First time I was promised to pay such an amount. But  
24 when I went over there in fact I was not paid that amount.  
25 And it happened as my friend opened the restaurant on Long

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1 Island, so since they would not give me enough time to  
2 work, so I went over to help my friend.

3 MR. TROY: Your Honor, if I may. I don't think  
4 that part is correct, the reason why he is talking about  
5 work enough days.

6 THE COURT: I can't rule on an objection like  
7 that. I have no ability to translate Chinese, and you and  
8 Mr. Brown agree to the translator. If you and Mr. Brown  
9 agree to the translation, you can do that.

10 I also appreciate you don't speak to the  
11 translator in Chinese while we're on the record.

12 Let's continue.

13 Q Just to be clear, were you not happy with the number  
14 of days that they scheduled you to work when you first  
15 started?

16 A That was one of the issues, but the main issue was  
17 that my friend opened the restaurant and asked me to help  
18 him over there.

19 Q How did you first find out about the position in  
20 April of 2014?

21 A Also from the newspaper.

22 Q And did you call the restaurant to inquire about the  
23 position?

24 A Yes.

25 Q And when you called the restaurant, who did you speak

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1 with?

2 A I spoke to the boss's wife.

3 Q And when you worked at Showa Hibachi, who would  
4 generally work the telephone or operate the telephone at  
5 the restaurant?

6 A Who generally answered the phone calls? There was a  
7 waitress who usually answered the phone call. If she was  
8 not there, it would be either the boss's wife or the  
9 boss's son who answered the call.

10 Q But when you called, did the boss's wife pick up the  
11 phone?

12 A Yes.

13 Q What position were you initially hired as?

14 A When I first went to work there, I was the kitchen  
15 cook.

16 Q Did your position ever change?

17 A No.

18 Q So why did you return to the restaurant in August of  
19 2015 -- I'm sorry, in '14?

20 A The boss's wife call me.

21 Q Approximately when did she call you?

22 A She call me approximately June.

23 Q And then you returned to work in August?

24 A Correct. And after I worked for my friend for a  
25 period of time and then the boss's wife called me and

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1       asked me to come over.

2       Q     So what specifically did she tell you when she called  
3           in June of 2014?

4       A     Four days a week and \$420 a week. On weekdays, we  
5           had to wash the dishes ourselves. On weekends there was a  
6           dishwasher person washing dishes.

7       Q     So she called you and just told you how much you will  
8           be paid?

9                          What else did she tell you when she called?

10      A     \$420 per week, four days a week, and based on my  
11           calculation for four days, that would be \$105 per day.

12      Q     Was this period after any different when you first  
13           started working at the restaurant in April of 2014?

14      A     From the time perspective, it was about the same.

15      Q     Was there any difference that you can think of  
16           between what you were offered in June and what you  
17           received in April.

18      A     You are talking about the second time I returned to  
19           work.

20      Q     From what you were told on the phone to what you  
21           originally received in April?

22      A     It was different.

23      Q     So how was it different?

24      A     Initially he hired the person to wash the dishes but  
25           in fact we had to wash the dishes on weekdays for the

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1 entire period of time I worked there.

2 Q So what is different about that? I don't understand  
3 what that has to do with the difference?

4 A He was behind the scope of the work that he was  
5 supposed to do.

6 Q Do you understand the question?

7 The question is did they offer you anything  
8 different when you said the boss's wife called you in June  
9 of 2014 versus when you first worked there in April of  
10 2014? Did she offer you something different for you to  
11 come back.

12 A No, no difference. I only work two or three days in  
13 April. When I returned to work in August, then he only  
14 has the person to work on weekend, so there was a total  
15 difference what she said to us.

16 Q Why did you choose to return to the restaurant in  
17 August?

18 A In August I finished the job at my friend's  
19 restaurant and I promised him to work for him during the  
20 opening period of time. And since I stopped working  
21 there, the boss's wife knew I worked three days and then  
22 she asked me to come over to work.

23 Q Did you notify anybody at Showa Hibachi that you  
24 would be returning?

25 A Would you repeat that?

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1 Q Did you tell anyone at Showa Hibachi that you wanted  
2 to return in August?

3 A I said to my friend I would help him for several  
4 months to open the restaurant, and afterwards I would go  
5 back.

6 Q So when did you tell someone at Showa Hibachi that  
7 you would be returning to the restaurant?

8 A That was before the Mother's Day in April before I  
9 left, I said I would go over there and help my friend for  
10 several months and then I would come back, I said to the  
11 person, I said to the boss's wife.

12 Q Did you notify her closer to the closing date that  
13 you would be returning?

14 A Could you repeat that?

15 MR. BROWN: Did you not hear the question or did  
16 you not understand the question.

17 THE WITNESS: I cannot hear.

18 (Interpreter repeats the question.)

19 A Yes, in June the boss's wife call me and said that I  
20 cannot finish over there. So by the end of July, I made a  
21 phone call and said I was going to come back.

22 Q What did you? Who did you say were the bosses at  
23 Showa Hibachi?

24 A From the mind of the employees, they were all from  
25 the same family. We all had to listen to them. They are

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1 the family.

2 Q Did you ever witness anyone got hired at Showa  
3 Hibachi?

4 A I witnessed a new hire.

5 Q Who did you witness getting hired?

6 A Hibachi cook -- chef, rather.

7 Q What did you observe?

8 A I personally witnessed that.

9 Q Well, what did you see?

10 A I saw the boss's wife hire the new employee.

11 Q Specifically what did you see?

12 A I saw the new employee come to work.

13 Q Did you observe an interview?

14 A I saw it.

15 Q Where was it held?

16 A In the kitchen.

17 Q And what -- did you hear what they were talking  
18 about?

19 A The boss's wife was working on the schedule.

20 Q How do you know it was an interview?

21 A I was next to them.

22 Q Did you hear what they said then?

23 A It was said that the new hibachi chef should do this  
24 or that, what kind of things the hibachi chef should do.

25 Q She was telling the hibachi chef what kind of job the

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1 hibachi chef does?

2 A The new chef.

3 Q Do you know if interviews were always held inside the  
4 kitchen?

5 A When they came to arrange the schedule, it was all in  
6 the kitchen.

7 Q How do you know the employee wasn't already hired?

8 A After the job was arranged and employee began to  
9 work, other than the employee would leave. Everybody  
10 knew.

11 Q What was the name of this employee?

12 A After I began working there, I knew there was a  
13 hibachi chef named Steven. It's an old Steven. There was  
14 another new employee from Taiwan, named and Andy.

15 There was one from Fuzhou. His name is Scott.

16 There was another one, we call him Ahbin. He's  
17 also from Fuzhou.

18 Q And you watched all these people get hired?

19 A Because they came after me.

20 Q You are saying that you watched them actually get  
21 hired as a hibachi chef?

22 A Yes.

23 Q And the boss lady interviewed all these people and  
24 you observed all of these interviews?

25 A Many of them I saw it. Most of them I saw it.

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1 Q Were employees ever fired at the restaurant?

2 A Yes.

3 Q How many people can you say were fired that you know  
4 of while you worked there?

5 A From what I know of, including myself, there were  
6 altogether three.

7 Q Let's go over the first one. Who was fired?

8 A The first one was the one from Taiwan, Andy. When he  
9 was fired, I was next to him.

10 Q And what did you observe?

11 A I knew that they had some arguments. The boss's wife  
12 told him not to come back the following day.

13 Q Who else did you say was hired?

14 A Other than that it was me.

15 Q You said there were four.

16 A The last one is Mr. JI, was also fired.

17 Q So you only witnessed one firing of an employee; is  
18 that correct?

19 A What I witnessed was one. Including myself, that  
20 would be two.

21 THE COURT: All right. Mr. Brown, let's find a  
22 good breaking point.

23 MR. BROWN: We can take a break now if that is  
24 convenient.

25 THE COURT: We'll wrap up today. Tomorrow we'll

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1 continue with the cross-examination of Mr. Li.

2 Mr. Troy, you will have that FedExed to Mr. Ji,  
3 the exhibits. Then we'll wind up the cross-examination.

4 MR. TROY: Yes, your Honor.

5 THE COURT: Anything else we need to talk about  
6 before 10:00 a.m. tomorrow?

7 MR. BROWN: Your Honor, if I may. I'm concerned  
8 about the way that the teleconference is being conducted.  
9 You know I understand there are laws in China regarding  
10 the transmission of testimony in foreign jurisdictions in  
11 proceedings. I know there are criminal penalties for  
12 everyone involved in the proceedings.

13 I know I myself traveled to China a number of  
14 times and I don't want to be implicated in any illegal  
15 activities. We're trying to look up to find the exact  
16 statute that says that is improper.

17 THE COURT: Why don't you do that. Maybe  
18 somebody will be willing to interpret that statute for me.  
19 I'll be willing to look at that.

20 In the meantime, why don't we continue with  
21 Mr. Li tomorrow morning and we'll talk about that, among  
22 other things, and we'll try to figure it out.

23 MR. TROY: Your Honor, in brief response. We  
24 did arrange Mr. Ji to come to Taiwan. And then to the  
25 other country and before he boarded on the airplane to

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1 Taipei, he was stopped. The reason why, he need a special  
2 permit from China to Taiwan.

3                   THE COURT: That may be, but if he is correct  
4 and it's illegal to be broadcast from China I will not let  
5 him testify. He has to get to a jurisdiction where it is  
6 permissible.

I will not make other people sacrifice their reputation if there are criminal records for your client to testify. It sounds what you are telling me if Mr. Brown is correct, but if he can't execute those plans I will not let him testify to sacrifice other people's rights.

13                   My first question, am I correct that Mr. Brown,  
14 it is correct that it is unlawful for him to testify from  
15 mainland China? Is it unlawful?

16 MR. TROY: Your Honor, sometimes --

17 THE COURT: For the record, it looks like you  
18 were hedging from your facial expression. I want a yes or  
19 no answer. Is it lawful?

20 MR. TROY: Your Honor, I don't know.

21 THE COURT: Find out if it's unlawful. I'd like  
22 the answer to that question tomorrow.

Any other questions?

24 MR. BROWN: That's all, your Honor.

THE COURT: Any else, Mr. Troy?

1                   MR. TR0Y: No, your Honor. My client couldn't  
2 come because after he fly from Tianjin to Xi'an, he need  
3 special permit from Taiwan, so he can not board it. He  
4 cannot board it. That's why he had to rush back to  
5 Tianjin to do this trial.

6                   (Whereupon, the proceedings were adjourned until  
7 March 27, 2018.)

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